

POLICY AND GUIDANCE ON THE SOLICITATION AND ACCEPTANCE OF PHILANTHROPIC DONATIONS

1. Background

- 1.1. The Office of Philanthropic Partnerships and Alumni (OPPA) of the University is responsible for income generation from philanthropic sources such as grant giving bodies, individual donors, corporate organisations and government agencies. The purpose of this activity is to provide additional resources to supplement the income provided by the University's core funders.
- 1.2. In undertaking these activities, the University recognises the need to conduct its fundraising within the context of the following national policies/codes (see Appendix 1 for links):
 - *Institute of Fundraising's Codes of Fundraising Practice*
 - *Association of Fundraising Professionals' International Statement of Ethical Principles in Fundraising*
 - *ImpACT (Improving Accountability, Clarity and Transparency) Coalition's Transparency Manifesto*
 - *Statement of Recommended Practice (SORP, 2015)*
 - *Woolf Inquiry (2011)*
- 1.3. The following policy and guidance on the acceptance of donations also needs to be read in conjunction with the following related University policies/codes (see Appendix 1 for links):
 - *Code of Practice and Principles for Good Ethical Governance*
 - *Framework for Ethical Consideration of Sources of Funding*
 - *Ethical Investment Policy*
 - *Due Diligence Policy & Process*
 - *Scheme of Delegation and Decision-making Powers*

2. Policy

- 2.1. The overarching purpose of this policy is to protect the University's reputation and also the interests of donors. It also seeks to ensure transparency and due diligence in the management of donations.
- 2.2. The basis on which the University will actively seek funding is as follows:
 - a) the full cost of the project will have been identified (including support staff costs, additional running costs and space requirements);

- b) the case for the project will have been approved by the Pro-Vice-Chancellor (Research) or the relevant Head of Department (HoD) or Academic Co-ordinator. In the case of major fundraising projects which are strategically important in enhancing the University's academic standing and/or income generating potential, the project will be considered by the Vice-Chancellor;
 - c) all projects will comply with the ethical standards laid out in the University's *Code of Practice and Principles for Good Ethical Governance* (see **Appendix 1**).
- 2.3. All communications to potential donors on behalf of the University will:
- a) be honest, truthful and legally compliant;
 - b) accurately describe the University's activities and the intended use of donated funds;
 - c) respect the dignity and privacy of individuals who are expected to benefit from a donation;
 - d) ensure that the donor's rights are respected and upheld.
- 2.4. Volunteers, employees and hired solicitors who solicit or receive funds on behalf of the University will:
- a) adhere to the provisions of this policy;
 - b) act with fairness, integrity and in accordance with all relevant legislation;
 - c) adhere to the provisions of applicable professional codes of ethics and standards of practice;
 - d) cease solicitation of a prospective donor who identifies this as harassment or undue pressure;
 - e) disclose immediately to their HoD or the Director of OPPA any concern that a donation may contravene any of the criteria contained within the associated Guidance (see Section 3 below).
- 2.5. Paid fundraisers, whether staff or consultants, will be compensated by a salary, retainer or fee, and will not be paid a finders' fee, commissions or other payments based on either the number of gifts received or the value of funds raised. Compensation policies for fundraisers, including performance-based compensation practices (such as salary increases or bonuses) will be consistent with the University's policies and practice that apply to non-fundraising staff.
- 2.6. With regard to financial accountability, the following principles apply:
- a) all donations will be used to support the objectives of the University;
 - b) all restricted or designated donations will be used for the purposes for which they are given, Gifts under £5,000 will be directed to the donor designated fund which best matches their intentions with gifts over £5,000 being managed and monitored. If necessary due to programme or organisational changes, alternative uses will be discussed where possible with the donor or the donor's legal representative. If the donor is deceased or legally incompetent, and the University is unable to contact a legal designate, the donation will be used in a manner that is as consistent as possible with the donor's original intent;
 - c) OPPA will comply with the Statement of Recommended Practice (SORP) 2016, taking guidance from the Finance Department as necessary;
 - d) annual financial reports on fundraising activity will be factual and accurate in all material respects;
 - e) OPPA will liaise with the Finance Department to ensure all income is attributed to the correct finance codes and any unspent funds are discussed with the donor to agree an appropriate course of action;
 - f) the cost effectiveness of the University's fundraising programme will be reviewed regularly by the University Executive Board (UEB).

- 2.7. In order to merit the trust and confidence of its donors and maintain high standards of gift stewardship, the University will:
- a) only solicit donations which help fulfil the vision and values of the University, while satisfying the philanthropic intent of the donor;
 - b) only seek funding for major projects which have been approved by the Vice-Chancellor as being strategically important, or for projects which have been approved by the relevant HoDs or Academic Coordinators;
 - c) provide individual donors of gifts over £5,000 with a gift agreement, detailing the purpose of the gift and how it will be recognised;
 - d) in cases where the agreed purpose of the donation can no longer be achieved effectively, promise to consult with the donor and to use donations in a manner consonant with the donors' intentions and in the spirit in which it was originally given;
 - e) professionally handle all donation information in accordance with relevant legislation, in particular the Data Protection Act 1998;
 - f) provide prompt and accurate answers about any aspect of a donation;
 - g) strictly observe requests for donor anonymity and, if requested, remove donor names from mailing lists shared with other University departments;
 - h) provide on request a copy of the University's most recent Annual Report and financial statements;
 - i) provide on request membership details of the bodies operating within the
 - j) University's governance structure.
- 2.8. The University will not sell or share its donor list.

3. Guidance

- 3.1. This guidance applies to all members of staff who are faced with making decisions about whether to accept benefactions of any kind.
- 3.2. In accordance with the University's *Framework for Ethical Consideration of Sources of Funding* (see **Appendix 1**), the onus is on the individual to use the framework to identify whether there are any ethical issues and then to consult further with appropriate colleagues, such as their HoD, line manager or departmental/subject-level ethics committee. With regard to benefactions in support of research, the University Senate has agreed that it is important not to take such responsibility from individual researchers who need to be proactively engaged with any potential issues in their own research.
- 3.3. When faced with a decision about whether to accept a benefaction from a particular source, the following questions are paramount:
- a) might acceptance of this funding potentially bring my department, and by extension the University, into disrepute?
 - b) might acceptance of this funding detrimentally affect other existing relationships within the University?
 - c) in the case of funding for research, consultancy or other such work, might the outputs or results be:
 - used by the funder to enhance unethical practices?
 - subject to limitations on dissemination or approval by the funder?

- 3.4. If the answer to any of the above three questions is ‘yes’, the matter should be discussed further with the HoD or his/her nominee (e.g. Chair of Departmental Research Committee). If no decision can be reached in discussion with these colleagues, the issue should be referred in the first instance to the departmental/subject-level ethics committee. Likewise, if the departmental/subject-level ethics committee is unable to resolve the matter, it should refer the case in question to the University Ethics Committee (UEC) which will consider it and make a recommendation to the University Council.
- 3.5. If it is agreed in further discussion that the organisation or individual offering the benefaction is involved in activities that may include unethical practices, the University’s approved principles for good ethical governance and practice apply, namely that there is a presumption against accepting the funding where the outcome could be used to enhance unethical practices. In some cases this presumption may be over-riden, for example where the organisation or individual has acknowledged the problem and is already attempting to eliminate it.
- 3.6. The University will also decline a donation if its acceptance would:
- damage the effective operation of the University in fulfilling its stated objectives;
 - cause significant harm to relationships with other partners, visitors, funders or stakeholders;
 - create an unacceptable conflict of interest;
 - lead to a demonstrable net decline in the assets of the University;
 - depend on the fulfilment of conditions unacceptable to the University.
- 3.7. Donations will also be declined if there is published or other credible evidence that the proposed gift will be made from a source that arises in whole or in part from an activity that:
- evades taxation;
 - involves fraud or any other criminal activity;
 - violates international conventions that bear on human rights;
 - limits freedom of inquiry or encroaches on academic freedom to question and test received wisdom and put forward new ideas and controversial or unpopular opinions.
- 3.8. In order to conform with the statutory requirements and recommended best practices, in particular the “know your donor” principles developed by the Charity Commission, the University’s Executive Board has agreed that a Due Diligence Policy and Process be implemented¹. The legal and reputational rights of potential donors will also be considered as part of any due diligence undertaken in assessing the acceptability of a proposed donation. In this regard, a clear distinction must be drawn between rumour or speculation and matters of confirmed fact or legal finding. If necessary, OPPA might refer the matter in question to the UEC for further consideration and onwards recommendation to the University Council.
- 3.9. In all of the above, individuals should bear in mind that the cornerstones for the management of ethical issues in the University are explicit discussion, institutional accountability, and proportionality.
- 3.10. It is the responsibility of volunteers, employees and hired solicitors who solicit or receive funds on behalf of the University to adhere to the *Scheme of Delegation and Decision-Making Powers* (see **Appendix 1**) when applying for funding and/or drafting a contract or gift agreement. In accordance with the Scheme, benefactions up to £100,000 require sign-off by the Director of

¹ University Executive Board minute 15–16/5 on 4 October 2016 see **Appendix 1**.

External Relations or the Registrar & Secretary; for those above £100,000 approval must be sought from the Vice-Chancellor.

- 3.11. If, following the acceptance of a donation, subsequent events or additional information give rise to ethical or other concerns about the donor, the University will undertake a thorough investigation and may choose to return the gift.

7 November 2016

To be reviewed annually

Appendix 1: Links to Associated Policies/Codes

1. Institute of Fundraising's Code of Fundraising Practice (www.institute-of-fundraising.org.uk/guidance/code-of-fundraising-practice/)
2. Association of Fundraising Professionals International Statement of Ethical Principles in Fundraising (www.afpnet.org/Ethics/IntlArticleDetail.cfm?itemnumber=3681)
3. ImpACT (Improving Accountability, Clarity and Transparency) Coalition's Transparency Manifesto (www.acevo.org.uk/document.doc?id=968)
4. Statement of Recommended Practice (SORP, 2016) (www.universitiesuk.ac.uk/policy-and-analysis/reports/Documents/2016/statement-of-recommended-practice-2016.pdf)
5. Woolf Inquiry (2011) (www.woolfse.com/dl/woolf-lse-report.pdf)
6. Code of Practice and Principles for Good Ethical Governance (www.york.ac.uk/staff/research/governance/policies/ethics-code/)
7. Framework for Ethical Consideration of Sources of Funding (www.york.ac.uk/media/abouttheuniversity/governanceandmanagement/documents/sources-funding-framework.pdf)
8. Ethical Investment Policy (www.york.ac.uk/staff/finance/policies/ethical-investment/)
9. Due Diligence Policy and Process (www.yorkspace.net/file/Due-Diligence-Policy-and-Process.pdf)
10. Scheme of Delegation and Decision-Making Powers (www.york.ac.uk/media/abouttheuniversity/governanceandmanagement/governance/council/Scheme%20of%20delegation%20v15,%202016%2001%202013%20formatted.pdf)